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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARTIN P. USHER and ANDREW R. MEAD

Appeal 2009-003332
Application 10/069,100
Technology Center 2600

Decided: August 24, 2009

Before KENNETH W. HAIRSTON, JOHN C. MARTIN, and BRADLEY
W. BAUMEISTER, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 9, 10, 12, 13, 15, and 16. We have jurisdiction under 35 U.S.C. § 6(b).

We will sustain the obviousness rejection of claims 9, 10, 12, 13, and 15, and reverse the obviousness rejection of claim 16.

Appellants have invented a method for facilitating telephone traffic between a fixed cellular network and a plurality of users in a movable network aboard a vehicle. In response to a control signal, the method

simultaneously suspends the forwarding of incoming calls to the plurality of users; however, the suspension of incoming calls does not disconnect a call in progress between any of the plurality of users and the fixed network (Figs. 1, 19; Spec. 16, 35).

Claim 9 is illustrative of the claims on appeal, and it reads as follows:

9. A method for facilitating telephone traffic between a fixed cellular network and a movable network aboard a vehicle, comprising:

configuring a ground-based host node to forward incoming calls from the fixed cellular network to a plurality of users through the movable network, and to forward outgoing calls from the plurality of users;

simultaneously suspending, in response to a control signal, forwarding incoming calls to the plurality of users;

wherein said suspending forwarding incoming calls does not disconnect a call in progress between any of the plurality of users and the fixed network.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Zicker	US 6,314,286 B1	Nov. 6, 2001
McConnell	US 6,633,636 B1	Oct. 14, 2003 (filed May 28, 1999)

The Examiner rejected claims 9, 10, 12, 13, 15, and 16 under 35 U.S.C. § 103(a) based upon the teachings of Zicker and McConnell.

The Examiner states (Ans. 3 and 4) that Zicker is silent as to “simultaneously suspending, in response to a control signal, forwarding incoming calls to the plurality of users; wherein said suspending forwarding incoming calls does not disconnect a call in progress between any of the

plurality of users and the fixed network.” According to the Examiner (Ans. 4), McConnell teaches the steps found missing in Zicker.

Appellants argue that “the primary Zicker reference does not teach or suggest any suspension of incoming calls, let alone a simultaneous suspension of incoming calls” (App. Br. 10), and that the McConnell reference teaches the suspension of an individual incoming call, and not incoming calls to a plurality of users (App. Br. 11).

ISSUE

Have Appellants shown that the Examiner erred by finding that the applied references teach simultaneously suspending the forwarding of incoming calls to a plurality of users in a movable network in response to a control signal, and wherein the suspension of the forwarding of incoming calls does not disconnect a call in progress between any of the plurality of users and the fixed network?

FINDINGS OF FACT (FF)

1. Zicker describes a method of facilitating telephone traffic between a fixed cellular network 22, 24 and a movable network 30 aboard an aircraft 20 (Figs. 1, 2; col. 3, l. 58 to col. 4, l. 27). A ground-based host node 36 is configured to forward incoming calls from the fixed cellular network 22, 24 to a plurality of users 50 through the movable network 30, and to forward outgoing calls from the plurality of users 50 (col. 4, ll. 28 to 38; col. 5, ll. 39 to 53).

2. When the movable network aboard the aircraft is placed in a passive mode by a switching signal, calls to and from all of the users 50 are simultaneously suspended (col. 11, ll. 20 to 23; col. 12, ll. 43 to 56; col. 13, ll. 56 to 65).

3. Although switching to the passive mode will normally terminate communication links to the users 50, an optional operation of the passive mode in Zicker allows users currently involved in voice communications to continue voice communication for a predetermined interval of time (col. 14, ll. 13 to 16).

4. McConnell describes a communication network in which a private branch exchange (PBX) 12 suspends an incoming call (Fig. 4, step 402; col. 7, ll. 15 to 18), and thereafter rings both a PBX phone as well as a mobile phone that belong to a customer (Fig. 4, step 412; col. 7, ll. 34 to 36). The PBX will connect the call to the first phone that the customer answers (Fig. 4, step 414; col. 7, ll. 36 to 38).

PRINCIPLES OF LAW

The Board may sustain a multi-reference rejection under 35 U.S.C. § 103(a) by relying on one of the references alone without having to designate the reliance on less than the total amount of evidence as a new ground of rejection. *In re Boyer*, 363 F.2d 455, 458 n.2 (CCPA 1966); *In re Bush*, 296 F.2d 491, 496 (CCPA 1961).

ANALYSIS

We agree with Appellants' argument (App. Br. 11) that McConnell is directed to suspending a call to a single user (FF 4), and is not concerned with the simultaneous suspension of a plurality of incoming calls to a plurality of users as set forth in claims 9 and 13 on appeal. As indicated *supra* (FF 1 to 3), however, Zicker describes all of the limitations of claims 9 and 13. The control signal in Zicker that places the movable network into the passive mode simultaneously suspends the forwarding of incoming calls to the plurality of users in the movable network (FF 2), and the suspension

of the forwarding of incoming calls does not disconnect a call in progress in the optional operation of the passive mode (FF 3).

Thus, the obviousness rejection of claims 9 and 13 based upon the teachings of Zicker and McConnell is sustained in view of the teachings of Zicker¹ alone. *Boyer*, 363 F.2d at 458 n.2; *Bush*, 296 F.2d at 496.

The obviousness rejection of claims 10, 12, and 15 is likewise sustained because Appellants have not presented any patentability arguments for these claims apart from the arguments presented for claims 9 and 13.

Turning lastly to claim 16, we agree with the Appellants' argument (App. Br. 12) that the applied references neither teach nor would have suggested the claimed step of the vehicle sending a control signal representing a request for the ground-based network to discontinue forwarding incoming calls to the vehicle. Accordingly, the obviousness rejection of claim 16 is reversed.

CONCLUSION OF LAW

Appellants have not demonstrated that the Examiner erred by finding that the applied references teach simultaneously suspending the forwarding of incoming calls to a plurality of users in a movable network in response to a control signal, and wherein the suspension of the forwarding of incoming calls does not disconnect a call in progress between any of the plurality of users and the fixed network.

¹ Although the Examiner made a finding (Ans. 3, 4) that Zicker is silent as to simultaneously suspending the forwarding of incoming calls to a plurality of users, and not disconnecting a call in progress as a result of the suspension of incoming calls, we find that Zicker does in fact teach the claimed simultaneous suspension of incoming calls, and maintenance of calls in progress (FF 2, 3).

ORDER

The decision of the Examiner rejecting claims 9, 10, 12, 13, and 15, under 35 U.S.C. § 103(a) is affirmed, and the decision of the Examiner rejecting claim 16 under 35 U.S.C. § 103(a) is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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